

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WELLS FARGO BANK, N.A.,

Plaintiff, : Case No. 3:07-cv-449

-vs- : Magistrate Judge Michael R. Merz

LaSALLE BANK NATIONAL
ASSOCIATION,

Defendant.

DECISION AND ORDER DENYING MOTION TO COMPEL

This case is before the Court on Plaintiff's Motion to Compel production of a document referred to as the Property Condition Assessment Guidelines (Doc. No. 66). Defendant filed a Response in Opposition (Doc. No. 68). Plaintiff has filed no reply memorandum in support and the time for doing so expired January 2, 2009.

In its Response, Defendant asserts that the Property Condition Assessment Guidelines are not responsive to Request No. 1 of Plaintiff's Fifth Request for the Production of Documents. In that

the Request Plaintiff called for "All LaSalle manuals, guidebooks, or analogous compilations of documents concerning internal procedures for the underwriting and/or origination of commercial loans that were in effect at the time the Loans were being underwritten and originated." (Quoted at Motion, Doc. No. 66, at 2.) Defendant asserts that these Guidelines did not concern "internal" procedures, but were in fact directed to outside evaluators. In addition, Defendant notes that no witness has testified these Guidelines were in effect at the time the loans in suit were being

underwritten and originated.

Plaintiff makes no response to these two assertions and the Court therefore accepts them as made. On that basis, the Motion to Compel is not well taken and is therefore DENIED.

April 14, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge